

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

BILL PARKER, JR.,

Plaintiff,

Case No: 4:06-cv-133

v

HON. JANET T. NEFF

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

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**JUDGMENT**

Plaintiff seeks judicial review of a September 2, 2006 decision of the Commissioner of the Social Security Administration. 42 U.S.C. § 405(g). Defendant moved to dismiss this case for lack of subject matter jurisdiction, arguing that the decision is not a judicially reviewable “final decision” of the Commissioner. The matter was referred to the Magistrate Judge, who issued a Report and Recommendation, recommending that this Court grant defendant’s motion. The Magistrate Judge agreed with Defendant that the Commissioner’s decision to vacate the ALJ’s March 30, 2006 decision and remand the case for further proceedings was not a final decision from which plaintiff could seek review.

The matter is presently before the Court on Plaintiff’s objection to the Report and Recommendation. In accordance with 28 U.S.C. § 636(b)(1) and FED. R. CIV. P. 72(b)(3), the Court has performed de novo consideration of those portions of the Report and Recommendation to which the objection was made. The Court denies the objection and issues this Judgment pursuant to FED. R. CIV. P. 58.

Plaintiff argues that because the ALJ issued a decision on remand, the Magistrate Judge erred in concluding that his complaint should be dismissed. Plaintiff’s argument is without merit.

Plaintiff's October 26, 2006 complaint sought review of the Commissioner's decision to remand the matter to the ALJ for further proceedings. A remand order is not a final reviewable decision. *Duda v. Secretary of Health and Human Services*, 834 F.2d 554, 555 (6th Cir. 1987). The Magistrate Judge therefore properly concluded that this Court lacks jurisdiction over Plaintiff's complaint, notwithstanding the fact that further administrative proceedings took place after Plaintiff filed his complaint.

**THEREFORE, IT IS ORDERED** that the objection (Dkt 19) is DENIED and the Report and Recommendation of the Magistrate Judge (Dkt 18) is APPROVED and ADOPTED as the opinion of the Court.

**IT IS FURTHER ORDERED** that Defendant's Motion to Dismiss (Dkt 10) is GRANTED and this action is DISMISSED.

Dated: June 2, 2008

/s/ Janet T. Neff

JANET T. NEFF

United States District Judge